

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MATTHEW ANDREW GARCES, INDIVIDUALLY AND AS HEIR OF THE ESTATE OF DARLENE GARCES CARUTH;

Case No. 5:25-CV-00703-JKP

Plaintiff,

v.

CITY OF SAN ANTONIO, SAPD, SERGEANT FNU MARFIN, SAPD COLD CASE SUPERVISOR; INDIVIDUALLY/OFFICIALLY; MIGUEL CONTRERASSR., JOHN DOES 1-10, SAPD OFFICERS;

Defendants.

ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Before the Court is United States Magistrate Judge Richard B. Farrer's Report and Recommendation, (*ECF No. 6*), filed November 17, 2025. Judge Farrer recommends the Court dismiss this case without prejudice to refiling should Plaintiff obtain preapproval to do so consistent with a prefiling injunction entered in *Garces v. Rossbach*, No. SA-25-CV-0441-JKP, 2025 WL 2544022, at *2 (W.D. Tex. Sept. 4, 2025). Upon consideration, the Court **ACCEPTS AND ADOPTS** the Report and Recommendation. As recommended, the Court will dismiss this case without prejudice to refiling, should Plaintiff obtain prior permission from the Court to do so.

As explained by Judge Farrer, this case is one of numerous *pro se* lawsuits filed by Plaintiff.¹ Many of Plaintiff's claims have been dismissed for failure to state non-frivolous claims. Due to this pattern of filing frivolous matters, United States Magistrate Judge Henry J. Bemporad recommended Plaintiff be declared a vexatious litigant. *See Garces v. Rossbach, et al.*, 5:25-cv-441-JKP-HJB, Report and Recommendation (W.D. Tex. June 4, 2025). The District Court adopted Judge Bemporad's Report and Recommendation, declared Plaintiff a vexatious litigant, and enjoined him from filing civil suits in the Western District of Texas without first obtaining leave of Court. *See Garces v. Rossbach, et al.*, 5:25-cv-441-JKP, Order (W.D. Tex. September 4, 2025). Plaintiff filed the present case after Judge Bemporad's recommendation was entered on the docket.

In light of the pre-filing injunction imposed upon Plaintiff, Judge Farrer now recommends this case be dismissed without prejudice to refiling, should Plaintiff obtain prior permission from the Court to do so. *ECF No. 6*. In Judge Farrer's Report and Recommendation, he provided instructions for service and notified all parties of their right to object. *Id.* The notice informed the parties that any objection must be specific, written, and filed within fourteen days. It further warned that a failure to object "shall bar the party from a *de novo* determination by the district court." *Id.*

No one has filed any objection to the Report and Recommendation, and the time for doing so has expired. Accordingly, the Court reviews the Report and Recommendation only to de-

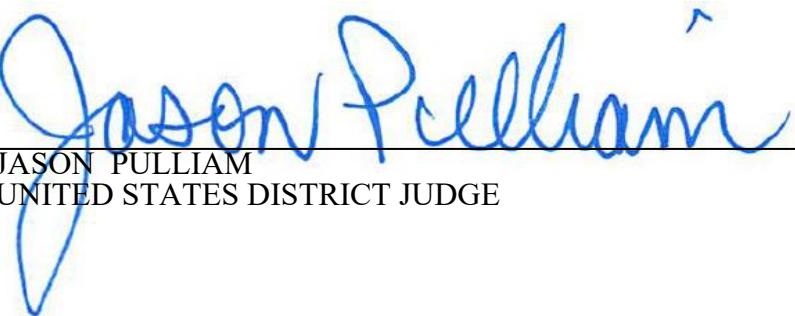
¹ See, e.g., *Garces v. Hernandez, et al.*, 5:25-cv-81-JKP; *Garces v. Hernandez*, 5:25-cv-82-FB; *Garces v. City of San Antonio, Attorney Deborah Klein et al.*, 5:25-cv-127-FB; *Garces v. Garland, et al.*, 5:25-cv-128-FB; *Garces v. Mohammed*, 5:25-cv-141-JKP-ESC; *Garces v. United Health Care, United Health Care Group*, 5:25-cv-00256-XR-RBF; *Garces v. Hernandez*, 5:25-cv-00312-XR; *Garces v. Ruiz et al.*, 5:25-cv-00339-JKP-HJB; *Garces v. Rossbach et al.*, 5:25-cv-00441-JKP; *Garces v. Doe et al.*, 5:25-cv-578-OLG-RBF; *Garces v. Bisignano*, 5:25-cv-579-XR-HJB; *Garces v. Saenz et al.*, 5:25-cv-605-OLG; *Garces v. Smith et al.*, 5:25-cv-607-XR-HJB; *Garces v. Tenet Health, et al.*, 5:25-cv-636-OLG; *Garces v. Pain & Spine Physicians of SA PLLC*, 5:25-cv-637-XR-HJB; *Garces v. Garcia*, 5:25-cv-686-FB-HJB; *Garces v. Huerta et al.*, 5:25-cv-633-XR; *Garces v. City of San Antonio et al.*, 5:25-cv-00703-JKP-HJB.

termine whether any finding or recommendation is clearly erroneous or contrary to law. *See Johnson v. Sw. Research Inst.*, 210 F. Supp. 3d 863, 864 (W.D. Tex. 2016) (citing *U.S. v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989)).² The Court knows of no principle of law that precludes a dismissal without prejudice as recommended under the facts and circumstances of this case.

Consistent with § 636(b)(1), the Court has reviewed the Report and Recommendation for clear error on the face of the record. Finding no such error, the Court **ACCEPTS AND ADOPTS** the Report and Recommendation, (ECF No. 6). As recommended, the Court **DISMISSES** this action without prejudice to Plaintiff refiling it after obtaining preapproval in accordance with the existing prefiling injunction imposed against him.

It is so ORDERED.

SIGNED this 5th day of December, 2025.



JASON PULLIAM
UNITED STATES DISTRICT JUDGE

² While Rule 72(b) does not facially require any review in the absence of a specific objection, the advisory committee notes following its adoption in 1983 state: “When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Further, failure to object shall also bar appellate review of those portions of the Magistrate Judge’s Report and Recommendation that were ultimately accepted by the district court, unless the party demonstrates plain error. *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985); *Wilson*, 864 F.2d at 1221.